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Attorneys for Defendant

I.C. SYSTEM, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ANITA FLORES, an individual,

Plaintiff,

vs.

I.C. SYSTEM, INC., a Minnesota
corporation; and DOES 1-5,

Defendants.

CASE NO. (Alameda Superior Court
Case No. RG17863384)

**NOTICE OF REMOVAL UNDER 28
U.S.C. § 1441 (A) (FEDERAL
QUESTION)**

[Filed concurrently with Notice of
Lodgment of State Court Pleadings and
Civil Case Cover Sheet]

Complaint filed: June 6, 2017

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant I.C. System, Inc. (hereinafter referred to as “Defendant”) respectfully submits this Notice of Removal in this civil action from the Superior Court of the State of California for the County of Alameda to the United States District Court for the Northern District of California, Oakland Division, pursuant to 28 U.S.C. §§ 1441 and 1446, based on federal question jurisdiction. Specifically, Plaintiff Anita Flores (hereinafter referred to as “Plaintiff”) asserts a claim for damages against Defendant arising out of alleged violations of the Rosenthal Fair Debt Collection Practices Act, 15 U.S.C. §1788, *et seq.* and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (“FDCPA”).

In support of this Notice of Removal, Defendant, through its counsel, states as follows:

PROCEDURAL BACKGROUND

1. Plaintiff commenced this action by filing a Complaint in the Superior Court of the State of California for the County of Alameda on June 6, 2017, styled *Anita Flores v. I.C. System, Inc.*, Case No. RG17863384 (the “State Court Action”). See Complaint, attached hereto as Ex. A.

2. The Complaint alleges violations of the Rosenthal Fair Debt Collection Practices Act, 15 U.S.C. §1788, *et seq.*, and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* See Complaint, ¶¶ 12, 14.

3. The Complaint was served on Defendant on June 14, 2017.

BASIS FOR REMOVAL – FEDERAL QUESTION JURISDICTION

4. Under 28 U.S.C. § 1331, the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

5. Under 28 U.S.C. § 1441(a), any civil action brought in a state court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where state court action is pending.

6. Further, 28 U.S.C. § 1441(b) provides that any civil action for which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties.

7. This Court has federal question jurisdiction over this action under the provisions of 28 U.S.C. § 1331, and the matter is removable pursuant to 28 U.S.C. § 1441 because the Complaint alleges that Defendant violated the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692c, by communicating

1 with a third party in connection with the collection of an alleged debt owed by
2 Plaintiff without Plaintiff's consent. *See* Complaint, ¶ 14.

3 8. The Complaint also alleges that Defendant is a “debt collector” as
4 defined by the FDCPA. *See* Complaint, ¶ 3.

5 9. Accordingly, this action is one in which this Court has original
6 jurisdiction under the provisions of 28 U.S.C. § 1331, and is one which may be
7 removed to this Court by Defendant pursuant to 28 U.S.C. § 1441(b).

8 10. The Complaint also alleges state law claims against Defendant,
9 namely, that Defendant violated the Rosenthal Fair Debt Collection Practices Act,
10 Cal. Civ. Code § 1788.17, *et seq.*, by communicating with a third party in
11 connection with the collection of an alleged debt owed by Plaintiff without
12 Plaintiff's consent. *See* Complaint, ¶ 12.

13 11. These allegations are based on the same set of operative facts that
14 form the basis of Plaintiff's federal FDCPA claim, and this Court has supplemental
15 jurisdiction over the state claims asserted in the Complaint pursuant to
16 28 U.S.C. § 1441(c).

17 **TIMELINESS OF REMOVAL**

18 12. As noted above, the Complaint was served on Defendant on June 14,
19 2017.

20 13. Defendant's Notice of Removal is timely because Defendant filed this
21 Notice “within thirty days after receipt by the defendant, through service or
22 otherwise, of a copy of an amended pleading, motion, order or other paper from
23 which it may first be ascertained that the case is one which is or has become
24 removable.” 28 U.S.C. § 1446(b)(3).

25 **VENUE**

26 14. Venue is proper in this district and division because the State Court
27 Action was filed and is pending in the Superior Court of the State of California for
28

1 the County of Alameda, which is located within the United States District Court
2 for the Northern District of California.

3 **COMPLIANCE WITH REMOVAL PROCEDURES**

4 15. Defendant has complied with all of the procedural requirements for
5 removal set forth in 28 U.S.C. § 1446.

6 16. As noted above, the Notice of Removal is filed within 30 days of the
7 service of the amended pleading from which it may first be ascertained that the
8 case is one which is or has become removable.

9 17. Pursuant to § 1446(d), a copy of this Notice of Removal, including
10 exhibits, is being served on Plaintiff.

11 18. Pursuant to § 1446(d), a copy of this Notice of Removal, including
12 exhibits, will be filed with the Superior Court of the State of California for the
13 County of Alameda, in Case No. RG17863384.

14 19. Copies of all process, pleadings and orders served on Defendant are
15 attached hereto. *See* Notice of Lodgment of State Court Pleadings, filed
16 concurrently herewith.

17 **WHEREFORE**, for the foregoing reasons, Defendant removes this action
18 from the Superior Court of the State of California for the County of Alameda to the
19 United States District Court for the Northern District of California and respectfully
20 requests that this Court exercise jurisdiction over this action.

21 Dated: July 14, 2017

GORDON & REES LLP

22
23 By: s/Sean P. Flynn
24 Sean P. Flynn
25 Attorneys for Defendant
26 I.C. System, Inc.
27
28

EXHIBIT A

6/14/17 2:50pm

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
I.C. SYSTEM, INC.; and **DOE I-5**

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
ANITA FLORES

SUM-100

FILED BY FAX
ALAMEDA COUNTY

June 06, 2017

**CLERK OF
THE SUPERIOR COURT**
By Lynn Wiley, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desatchar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **Alameda Superior Court
1225 Fallon Street
Oakland, California 94612**

CASE NUMBER:
(Número del Caso):

RG17863384

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
ROBERT AMADOR, ESQ. 9452 Telephone Rd. 156 Ventura, CA. 93004 (888)776-1119 ext. 11

DATE:
(Fecha) **June 06, 2017**

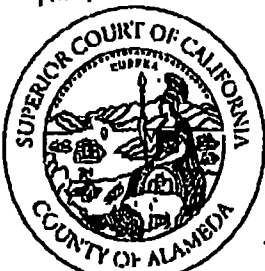
Clerk, by:
(Secretario)

Lynn Wiley
clerk

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



Form Approved for Electronic Use
Judicial Council of California
JD-100 (Rev. July 1, 2006)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person cited under the fictitious name of (specify):

3. ☒ on behalf of (specify): **F.C. SYSTEMS, INC.**

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☒ by personal delivery on (date): **6-14-17**

SUMMONS

Page 1 of 1
Code of Civil Procedure §§ 411.20, 435
www.courtinfo.ca.gov

1 ROBERT AMADOR, ESQ. (State Bar #269168)
2 Centennial Law Offices
3 9452 Telephone Rd. 156
4 Ventura, California 93004
5 Telephone: (888) 308-1119 ext. 11
6 Facsimile: (888) 535-8267

7 Attorney for Plaintiff
8 ANITA FLORES

FILED BY FAX
ALAMEDA COUNTY
June 06, 2017
CLERK OF
THE SUPERIOR COURT
By Lynn Wiley, Deputy
CASE NUMBER:
RG17863384

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

10 ANITA FLORES,) Case No.
11 Plaintiff,) (Under \$10,000 claim)
12 vs.) LIMITED CIVIL CASE FOR:
13 I.C. SYSTEM, INC.; and) 1.) ROSENTHAL FAIR DEBT
14 DOE 1-5,) COLLECTION PRACTICES ACT
15 Defendants.) VIOLATIONS (Cal. Civ. Code § 1788 et
) seq.).
) 2.) FAIR DEBT COLLECTION
) PRACTICES ACT (15 U.S.C. 1692 et seq.)
)
)

19 PLAINTIFF, ANITA FLORES, ALLEGES:

20 GENERAL ALLEGATIONS APPLICABLE TO ALL CAUSES OF ACTION

21 1. Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOE
22 1-5, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend
23 this Complaint to allege their true names and capacities when ascertained. Plaintiff believes and
24 thereon alleges that each of the fictitiously named defendants is responsible in some manner for
25 the occurrences herein alleged, and that each is responsible to Plaintiff for damages and/or
26 monies owed.

27 2. This court has jurisdiction over this action pursuant to California Code of Civil
28 Procedure §410.10.

1 3. This is the court of proper venue pursuant to California Code of Civil Procedure §395
2 in that Plaintiff resides and suffered harm within the county.

3 4. Plaintiff Mrs. Flores is a resident of Oakland, California.

4 5. Defendant, I.C. SYSTEM, INC. (hereinafter "Defendant") is a Minnesota corporation
5 believed to maintain its principle place of business at 1737 East Washington Blvd, #5 at 444
6 Highway 96 East, St. Paul, MN. I.C. SYSTEM, INC. and DOE 1-5 are "debt collectors" as
7 defined by 15 U.S.C. 1692a and Cal. Civ. Code § 1788.1(c). I.C. SYSTEM, INC. and DOE 1-5
8 shall jointly be referred to herein as "Defendants".

9
10 **FACTUAL BACKGROUND**

11 6. Defendants engaged in an effort to collect a consumer debt (hereinafter "DEBT")
12 allegedly owed by Mrs. Flores.

13 7. On July 19, 2017, Defendants called Mrs. Flores' son Jorge Flores at (510)830-6032
14 and advised Mr. Flores that they were calling about a debt Mrs. Flores owed on an AT&T
15 account. Mr. Flores advised Defendants that his mother did not have an account with AT&T and
16 not to call him again. Defendants told Mr. Flores that they will continue to call every day until
17 the debt is paid.

18 8. Mrs. Flores never consented to Defendants communicating with any third party
19 concerning the DEBT.

20 9. Mrs. Flores, harassed and embarrassed that Defendants disclosed the alleged DEBT
21 with her son, retained counsel with Centennial Law Offices.

22 10. Based on the foregoing, and as a direct result of Defendants' unlawful collection
23 activities, Plaintiff has incurred attorney's fees of \$1,455.00 to date.

24
25 **FIRST CAUSE OF ACTION**
26 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (Cal. Civ. Code Code §**
 1788 et seq.)

27 **BY PLAINTIFF ANITA FLORES AGAINST DEFENDANTS**
28 **I.C. SYSTEM, INC. AND DOE 1-5**

11. Plaintiff re-alleges paragraphs 1 through 10, inclusive, and by reference hereto incorporates the same as though fully set forth herein.

12. Plaintiff is informed and believes and herein alleges that Defendants, and each of them, violated Cal. Civ. Code § 1788.17 by violating 15 U.S.C. 1692c(b) by communicating with a third party in connection with the collection of an alleged debt owed by Plaintiff without Plaintiff's consent.

SECOND CAUSE OF ACTION

FAIR DEBT COLLECTION PRACTICES ACT (15 U.S.C. 1692 et seq.) BY PLAINTIFF ANITA FLORES AGAINST DEFENDANTS I.C. SYSTEM, INC. AND DOE 1-5

13. Plaintiff re-alleges paragraphs 1 through 10, inclusive, and by reference hereto incorporates the same as though fully set forth herein.

14. Plaintiff is informed and believes and herein alleges that Defendants, and each of them, violated 15 U.S.C. 1692c(b) by communicating with a third party in connection with the collection of an alleged debt owed by Plaintiff without Plaintiff's consent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, attorney's fees being in the alternative, recovery for each cause of action as follows:

ON THE FIRST CAUSE OF ACTION (Cal. Civ. Code § 1788 et seq.):

- 1.) For statutory damages in the amount of \$1,000 pursuant to Cal. Civ. Code § 1788.30(b);
- 2.) For \$1,455.00 in legal costs incurred in responding to unlawful collection activity;
- 3.) For prejudgment interest in an amount to be proven at time of trial;
- 4.) For attorney's fees pursuant to Cal. Civ. Code § 1788.30(c);

1 5.) For the costs of this lawsuit pursuant to Cal. Civ. Code § 1788.30(c); and

2 6.) For any other and further relief that this Court deems just and proper.

3
4 ON THE SECOND CAUSE OF ACTION (15 U.S.C. 1692 et seq.):

5 1.) For statutory damages in the amount of \$1,000 pursuant to 15 U.S.C. 1692(k)(2);

6 2.) For \$1,455.00 in legal costs incurred in responding to unlawful collection activity;


7 3.) For prejudgment interest in an amount to be proven at time of trial;

8 4.) For attorney's fees pursuant to 15 U.S.C. 1692(k);

9 5.) For the costs of this lawsuit; and

10 6.) For any other and further relief that this Court deems just and proper.

11 DATED: June 5, 2017

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13 

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15 _____
16 ROBERT AMADOR
17 Attorney for Plaintiff
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify and declare that I am over the age of 18 years; I am an employee of Gordon & Rees LLP, and my business address is 2211 Michelson Drive, Suite 400, Irvine, California 92612. On **July 14, 2017**, I served a true and correct of the following: **NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441 (A) (FEDERAL QUESTION)**, to the individuals listed below as follows:

Attorneys for Plaintiffs:

Robert Amador
Centennial Law Offices
9452 Telephone Rd. 156
Ventura, CA 93004
Telephone: (888)308-1119



U.S. Mail Postage Prepaid



CM/ECF



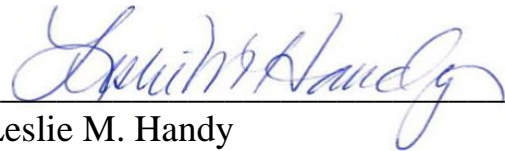
Hand Delivery



Email:

I declare that I am employed in the office of a member of the California State Bar who is permitted to practice before this Court, and at whose direction the service stated above was made in the ordinary course of business. I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 14, 2017, at Irvine, California.



Leslie M. Handy